

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JUDGE - John B. Jones
CASE NO. - CR10-40047-01

REPORTER - Jerry May
Date - 11/2/10
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CASE

USA,

Plaintiff,

vs.

GUILLERMO ORTIZ, a/k/a "Memo",
Defendant.

COUNSEL

John Haak

Clint Sargent

COURTROOM DEPUTY: Jackie Meisenheimer

TIME HEARING SCHEDULED TO BEGIN: 9:00 a.m.

TIME:

9:00 am Enter motions hearing before the Hon. John B. Jones, Senior Judge, Sioux Falls. Counsel are present. Defendant is present.

Esperanza Lopez-Dominguez and Andres Diaz are sworn as interpreters.

Government's Motions in Limine: Mr. Haak requests they be granted. Mr. Sargent does not object but requests clarification as to his client being in prison during this conspiracy. Mr. Haak agrees. Court grants the three motions.

Mr. Sargent moves to sequester all witnesses. No objection by Mr. Haak. Court grants.

9:05 am Jurors are given the oath to venirement

10:30 am 13 jurors are seated and sworn to hear the case.

10:35 am Jurors admonished and court in recess for 10 mins.

10:50 am Jury returns and trial resumes.

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Mr. Haak reads the Indictment and states the plea of the defendant.

Mr. Haak makes his opening statement to the jury.

Mr. Sargent makes his opening statement to the jury.

Craig Kjonsgaard is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines. No redirect.

11:40 am Jury admonished and Court in recess until 12:45 p.m.

12:45 am Jury returns and trial resumes.

Carlos Clemente Perez-Pantaleon is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines. No redirect.

Jose Rodriguez Narez is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination.

Dave Duntzman is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines. No redirect.

John Duprey is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. No cross examination.

2:40 pm Jury admonished and court in recess

2:55 pm Jury returns and trial resumes.

Juan Maldonado is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines. No redirect.

Troy Rubin is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines. No redirect.

4:40 am Jury admonished and court in recess until 9:00 a.m. tomorrow.

Wednesday, 11/3/10

9:00 am Outside the presence of the jury and in the presence of counsel, the

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following proceedings were held:

Mr. Haak notes both parties have submitted proposed jury instructions and requests proposed instruction #10 based on Mr. Sargent's comment during opening statement.

9:00 am Jury returns and trial resumes.

Renee Ronsberg is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr Sargent cross examines. Mr. Haak redirects.

Shea Reiners is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines.

Dustin Call is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines. No redirect.

David Dale is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Sargent cross examines.

Tommy Schmitz is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination.

Gary Harvison is called and sworn as a witness on behalf of the government. Mr. Haak begins direct examination. Mr. Haak reads Exhibit 10, Stipulation to the jury re: Kenneth Booker, chemist. Mr. Haak resumes direct examination. Mr. Haak reads Stipulation to the jury re: Stephen Erisman, chemist. Mr. Haak resumes direct examination.

11:10 am Jury admonished and court in recess.

11:25 am Jury returns and trial resumes.

Gary Harvison retakes the witness stand and Mr. Haak resumes direct examination. Mr. Sargent cross examines. No redirect.

Government rests.

Defendant rests.

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11:40 am Jury admonished and court in recess until 1:00 p.m.
12:45 pm Outside the presence of the jury and in the presence of counsel, the following proceedings were held:

Mr. Sargent makes motion for judgment of acquittal. Mr. Haak responds. Court denies the motion.

Settlement of jury instructions:
#1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, #20 - no objection

#21, Mr. Sargent objects and has proposed alternative language to be added to pattern in the final paragraph. Court will give #21 as printed.

#22, #23, #24, verdict - no objections

Mr. Haak proposes their instruction #10. Mr. Sargent objects. Court refuses.
Mr. Haak proposed #11 which was adopted by the Court.
Mr. Haak proposes their instruction #12. Mr. Sargent objects. Court refuses.

Mr. Sargent proposes their instruction #1 & #2. Mr. Haak objects. Court refuses.

1:05 pm Jury returns and trial resumes.

Court instructs the jury as to the law applicable to the case.

Mr. Haak, on behalf of the government, makes his initial closing argument to the jury.

Mr. Sargent, on behalf of the defendant, makes his closing argument to the jury.

Mr. Haak makes his final closing argument to the jury.

Alternate juror is excused subject to call.

Bailiff is sworn by the courtroom deputy.

2:00 pm Jurors now retire to the jury room to begin deliberations.

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Counsel certify exhibits that are to go to jury.

2:05 pm

Court in recess.

3:12 pm

Comes now the jury with a question.

Court reads the questions into the record. Mr. Haak proposes his instruction #10. Mr. Sargent responds. Mr. Haak makes rebuttal argument.

Court proposes supplemental instruction #1. Mr. Haak proposes one amendment that the word "or" be inserted before the word "enduring". Other than that, he has no objection. Mr. Sargent objects and requests that wording be added in the second sentence "but in this case, the Government must prove a single conspiracy". Mr. Haak opposes Mr. Sargent's language. Mr. Sargent makes argument. Court directs supplemental instruction will be given to the jury.

4:00 pm

Court in recess.

4:35 pm

Comes now the jury with a verdict of guilty.

Mr. Sargent requests the jury be polled.

4:40 pm

Jurors excused subject to call.

Sentencing is set for 2/23/2011 at 2:00 p.m. Disclosure due 1/19/11; objections to PSR due 2/2/11.

4:45 pm

Court in recess.